

Attorney Docket No.: 01CON247P-CON
Application Serial No.: 10/806,800

REMARKS

This is in response to the *Final* Office Action of November 9, 2007, where the Examiner has rejected claims 30-55. An early allowance of outstanding claims 30-55 in view of the following remarks is requested.

A. Rejection of Claims 30-32, 38-40, 46-48 and 50-52 under 35 USC § 102(e)

The Examiner has rejected claims 30-32, 38-40, 46-48 and 50-52, under 35 USC § 102(e), as being anticipated by Farris, et al. (USPN 6,438,218) ("Farris"). For the reasons stated below, applicant respectfully disagrees.

Claim 30 of the present application recites "negotiating, in response to said call, over said first telephone line with said first client modem to establish a first physical modem connection between said first client modem and a first gateway modem of said first gateway."

On page 17 of the Office Action, under the heading "Response to Arguments," the Examiner states that "Farris does disclose a first physical modem connection (see figure 4, block 50) is negotiated and established (see column 12, lines 36-40) between the first client modem (see figure 4, block 64) and the first gateway modem of the first gateway (see figure 4, block 72.)" The Examiner goes on to state that "The central office inherently includes a modem and analyzes received data in determining that the call is an Internet call. It is inherent that the first gateway modem (see figure 4, block 72) includes a modem to modulate data over physical connections."

First, applicant respectfully submits that there is no disclosure in Farris, whatsoever, that any negotiation takes place between modem 64 of Farris and Internet module 72 over the telephone line. The Examiner's characterization of Farris is also confusing to the extent that the

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Examiner designates block 50 as the first physical modem connection. It is unclear how the first physical modem connection can be established between block 50 and modem 64 when the Examiner alleges that the first gateway modem resides in Internet module 72. As stated in claim 30, the first physical modem connection is established between the modems.

The Examiner also cites column 12, lines 36-40 as supporting a negotiation between modem 64 and Internet module 72. However, column 12, lines 36-40 simply reads:

the calling station. At 304 the central office switching system analyzes the received digits and determines from the prefix *84 that the call is an Internet call from a computer station caller to a computer terminal at the customer premises of the called party. Responsive to its programming the originating

It is respectfully submitted that one of ordinary skilled in the art understands modem negotiation and modem connection over the telephone line to be quite different than a simple analysis of dialed digits. The dialed digits are part of establishing a voice call. Also, as it is well known by one of ordinary skill in the art that modem negotiation is performed between the modems at each end to negotiate and select one or more modem parameters, such as modulation parameters. Even assuming, arguendo, that it is inherent for a gateway to have a modem, the Examiner has admitted that such modem in Farris would merely analyze the data coming from the client modem. There is no disclosure, teaching or suggestion in Farris that a modem at Internet module 72 (assuming one exists) performs any negotiation with modem 64 or the client modem. At most, such modem at Internet module 72 would monitor signals coming from modem 64. However, according to claim 30 of the present application the first client modem and the first client modem negotiate to establish the first physical modem connection.

In contrast, in Farris, only two modems are shown, i.e. modems 64 and 66. It is respectfully submitted that, in Farris, the modem negotiation is performed between modem 64

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and modem 66, and Internet modules 72 and 74 simply facilitate this modem connection, and even if there is a modem in each of Internet modules 72 and 74 (which is not disclosed by Farris), such modem would simply monitor and analyze signals from modems 64 and 66, and would not negotiate to establish a connection with either modem 64 or 66.

There is also no disclosure, teaching or suggestion that the connection between Internet module 72 and modem 64 is anything other than a typical "voice connection" that passes through the signals between modem 64 and modem 66. Also, simply because Internet module 72 has a modem (assuming, arguendo), and such modem monitors and analyzes signals from modem 64, the "voice connection" does not turn into a "modem connection," unless there is an exchange of information (i.e. negotiation) between the modems to establish a modem connection. It is respectfully submitted that there is no disclosure in Farris that Internet modules 72 enters in any type of exchange of information with modem 64 to establish a modem connection.

Accordingly, applicant respectfully submits that claim 30 is patentable over Farris, and should be allowed. Further, claims 30-32 depend from claim 30, and should be allowed at least for the reasons stated above. It is respectfully submitted that independent claims 38, 46 and 50 include limitations similar to those discussed above in conjunction with claim 30. Therefore, independent claims 38, 46 and 50, and their respective dependent claims 39-40, 47-48 and 51-52, should also be allowed at least for the reasons stated above.

B. Rejection of Claims 33 and 41 under 35 USC § 103(a)

The Examiner has rejected claims 33 and 41, under 35 USC § 103(a), as being unpatentable over Farris.

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Applicant respectfully submits that claims 33 and 41 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

C. Rejection of Claims 34 and 42 under 35 USC § 103(a)

The Examiner has rejected claims 34 and 42, under 35 USC § 103(a), as being unpatentable over Farris in view of Endo (USPN 6,381,038) ("Endo").

Applicant respectfully submits that claims 34 and 42 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

D. Rejection of Claims 35-37 and 43-45 under 35 USC § 103(a)

The Examiner has rejected claims 35-37 and 43-45, under 35 USC § 103(a), as being unpatentable over Farris in view of Endo, and further in view of Davis, et al. (USPN 6,049,902) ("Davis").

Applicant respectfully submits that claims 35-37 and 43-45 depend from claims 30 and 38, respectively, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 30 and 38.

E. Rejection of Claims 49 and 53-55 under 35 USC § 103(a)

The Examiner has rejected claims 49 and 53-55, under 35 USC § 103(a), as being unpatentable over Farris in view of Davis.

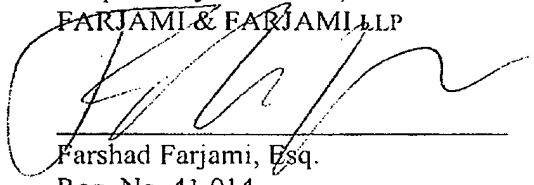
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Applicant respectfully submits that claims 49 and 53-55 depend from claims 46 and 50, and should be allowed at least for the reasons stated above in conjunction with patentability of claims 46 and 50.

F. Conclusion

Based on the foregoing reasons, an early Notice of Allowance directed to all claims 30-55 pending in the present application is respectfully requested.

Respectfully Submitted,
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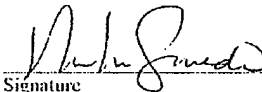
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